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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1962.

No. 881

FEDERAL PACIFIC ELECTRIC COMPANY and
GENERAL ELECTRIC COMPANY,
Petitioners,

vs.

CITY OF KANSAS CITY, MISSOURI,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT.

RESPONDENT'S BRIEF IN REPLY TO PETITION FOR CERTIORARI.

KEITH WILSON, JR.,
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2800 City Hall,
Kansas City, Missouri,
Attorney for Respondent,
City of Kansas City,
Missouri.

E. L. MENDENHALL, INC., 1108 Oak Street, Kansas City 6, Mo., HArrison 1-8030

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STATEMENT OF THE CASE.

Respondent concurs in the Statement of the Case, Statement of Jurisdiction, Statement of Statutes Involved and the Question Presented as set forth in the Petition for Writ of Certiorari heretofore filed by petitioners, Federal Pacific Electric Company and General Electric Company.

RESPONDENT'S POSITION.

It is the position of respondent City of Kansas City, Missouri, that the decision in the United States Court of Appeals for the Eighth Circuit is correct in every respect and that it is fully supported by the decisions of this Court in *Bailey* v. *Glover*, 88 U.S. (21 Wall.) 342 (1875); *Exploration Company* v. *United States*, 247 U.S. 435 (1918); *Holmberg* v. *Armbrecht*, 327 U.S. 392 (1946); and *Glus* v. *Brooklyn Eastern District Terminal*, 359 U.S. 231 (1959). This decision is further buttressed by an opinion handed down by the United States Court of Appeals for the Second Circuit permitting the tolling of Section 4B because of "Fraudulent Concealment," and arising from precisely the same fact situation as the instant cause, *Atlantic City Electric Company* v. *General Electric Company*, December 31, 1962, 1963 C.C.H. Trade Cases, paragraph 70,604.

However, regardless of the foregoing, respondent does not interpose objections to the granting of certiorari. Respondent believes that the petition should be granted and that the question presented should be decided as early as possible. Many other municipalities are concerned with the disposition of the question here presented. Respondent has other cases pending which are affected by this question and until this question is finally decided there is no guide for the scope of discovery, admissibility of evidence beyond the statutory four-year period; and no guide exists for negotiations for settlement with relation to transactions occurring prior to the statutory four-year period. If the Court grants certiorari, respondent respectfully suggests that the question presented is correctly phrased by petitioner.

CONCLUSION.

In the event that this Court grants certiorari, the question to be reviewed and the statutes involved are as hereinbefore stated.

Respectfully submitted,

KEITH WILSON, JR.,
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2800 City Hall,
Kansas City, Missouri,
Attorney for Respondent,
City of Kansas City,
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